

Introduction

This manual describes in simple terms the civil appellate process and the related California Rules of Court that are in effect as of the date at the bottom of the page in each chapter. The manual is intended for persons who represent themselves (also called “self-represented litigants” and those “in pro per” or “in pro se”) and attorneys with little or no appellate experience who are bringing civil appeals to the California Court of Appeal, Fourth Appellate District, Division One, which has jurisdiction over appeals from San Diego and Imperial Counties. The manual does not cover criminal or juvenile dependency appeals.

The customs and practices of each Court of Appeal and the divisions within them may be different. If you are not filing your appeal in Division One of the Fourth Appellate District, you must be careful in using this manual to make sure the same rules apply to the court in which you have filed your appeal.

The materials included here are not legal advice and may not be used as legal authority. The primary legal authority for the practices described in this manual is the California Rules of Court. (The California Rules of Court are sometimes referred to in this manual as "CRC," for example, "CRC rule 8.100.") The manual does not replace or supersede the California Rules of Court. It is merely a general summary of the applicable rules. The rules themselves are subject to change, and you should consult them directly.¹ In the event the information here differs from the California Rules of Court, you must follow the California Rules of Court.

The process of appealing a civil case is a series of steps. Many of the steps are presented in this manual in the form of questions that you need to answer in the order shown. This manual answers some questions and guides you in answering others.

The appendices to this manual include a timeline to assist you in computing and meeting applicable deadlines for an appeal ([Appendix 1](#)) and a glossary defining important terms used in the manual ([Appendix 5](#)).

¹ The California Rules of Court are available at any law library, on the Internet at <http://www.courtinfo.ca.gov/rules>, or can be ordered for a fee by calling 1-800-328-9352. See CRC rules 8.100–8.276 and 8.500-8.552 if you are appealing from the unlimited jurisdiction of the superior court to the Court of Appeal. Appeals from the limited jurisdiction of the superior court to the appellate division of the superior court are covered by CRC rules 8.700-8.773; transfer from the Appellate Division of Superior Court to the Court of Appeal is covered by CRC rules 8.1000-8.1018. This manual discusses only appeals to the Court of Appeal, not to the Appellate Division.

All of the forms referred to in this manual are included in the final section entitled "Sample Forms and Instructions," along with detailed instructions for filling them out. If you want to keep a **file-stamped** copy of the filed document for your personal files, you should (1) bring an extra copy if you are going to the court in person *or* (2) provide an extra copy and include a self-addressed, stamped envelope if you are filing your document by mail.

If you are reading a hard copy of this manual, you may access the entire manual online and print up the sample forms by going to the website for the Fourth Appellate District, Division One, <http://www.courtinfo.ca.gov/courts/courtsofappeal/4thDistrictDiv1/>. Click on "Self-Help Manual" to access the manual. Other useful information is also available on this website, including directions to the court, parking information, answers to frequently asked questions (click on "FAQ"), and the local rules, practices, and procedures of the court. You may also access online information about your own case by clicking on "Case Information." (See [Chapter 6](#).)

Many of the sample forms in this manual (Sample Forms A, D, E, F, J, R, T, U) are also available online in Adobe Acrobat PDF format and may be filled out electronically for free at <http://www.courtinfo.ca.gov/cgi-bin/forms.cgi> (where they are labeled as forms APP-002 through APP-007, FW-001-INFO, FW-001, and FW-003). A more abbreviated description of the civil appeal process (form APP-001) is also available at this Internet address.

For filing, briefing, and/or arguing your appeal, you should consider hiring an attorney if you are able to do so. Bringing a case to the Court of Appeal without an attorney is hard work and takes a good deal of time. If you are self-represented, you are held to the same level of work as if you were an attorney. In most cases, you have only one chance to have the court hear your case. In addition, you must follow all of the court's rules and procedures. If you do not, your case may be dismissed. An attorney who has done some appeals and knows how to handle them will know what to do when, and can guide your case through the court process. The Lawyer Referral and Information Service of the San Diego County Bar Association (800-464-1529 or 619-231-8585) has a list of appellate attorneys who are experienced in this area. You may want to call one of them.

If you do not pay fees and file papers on time, your appeal may be dismissed as having been "abandoned" by you. This happens because the Court of Appeal assumes that if you do not take care of the things that need to be done, you are no longer interested in going forward with your case. You will always get a notice that the case is going to be dismissed before it happens so you will have a chance to do whatever is needed to keep the appeal going. But if you do not promptly do what is needed, the appeal will be dismissed.

It is important to tell the superior court, the Court of Appeal, and all counsel and self-represented parties about any change in your address or telephone number. You can do this by serving and filing a change of address with both courts.

It is difficult to win an appeal. Only about 20 percent of civil appeal cases are reversed. The Court of Appeal does not retry the case, take new evidence, or weigh the credibility of witnesses. The appeal must be based on the record created in the superior court. Generally, the appealing party must demonstrate that a legal error was made by the superior court. If you had a trial, the Court of Appeal will not second-guess the superior court judge or jury and find in your favor simply because you had more witnesses or more evidence than the other side. The Court of Appeal presumes the superior court judgment is correct, and the appealing party must overcome this presumption to win the appeal. Not only must there be a mistake or error of law for the case to be reversed, but the alleged mistake must generally have been pointed out through an objection to the superior court judge. In other words, your attorney—or you, if self-represented in superior court—must have made a specific objection during the trial to raise most issues on appeal. If there was a mistake, it also has to have been important enough that it could have made a difference in the outcome of the case.

If you do not win your appeal (the judgment or order you have appealed from is "affirmed"), you may be ordered to pay "costs" – the money paid for certain items by the other side in responding to your appeal. In some cases, costs may include the other side's attorney fees. This may be a large amount of money. You should carefully consider this risk before you file your appeal.

The appeals section of the superior court processes the *Notice of Appeal* and designation of the record, prepares the record for the appeal, and certifies the record to the Court of Appeal. After you have filed your *Notice of Appeal*, the superior court will send a copy of it to the Court of Appeal, where it will be given an appellate court case number. Any papers, pleadings, or briefs you file should have this number on the cover (if you use a cover) or on the first page.

You may not visit or talk about your case with a justice or a member of his or her staff. The Court of Appeal clerk's office will help you as much as they can, but they cannot give you legal advice or tell you what to put in your papers.

When you have filed your brief, please fill out the evaluation on the last page of this manual and let us know how to make the manual better for the people who come after you. Please mail your evaluation to Clerk, Court of Appeal, Fourth Appellate District, Division One, 750 B Street, Suite 300, San Diego, CA 92101.